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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,140	02/22/2002	Thomas Wyss	Rovema Case 27	8515

7590 01/30/2003

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EXAMINER

DURAND, PAUL R

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 01/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/081,140

Applicant(s)

WYSS ET AL.

Examiner

Paul Durand

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "second device" in Line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberto et al (US 5,562,581) in view of Dietrich et al (US 4,197,790).

In regard to claims 1,3,4 and 6, Roberto discloses the invention substantially as claimed including a magazine (not shown), removing device 7, gripping means 18, comprised of suction cups 19, forwarding conveyors 9 and 10, forming an expansion chamber, with lugs 15 arranged on conveyor 9 and lugs 8 arranged on conveyor 10

(see Figs. 2a, 2b, C3, L22-49 and C4, L5-7). What Roberto does not disclose is the use of a compressing section that partially opens the carton before introduction into the expansion chamber. However, Dietrich teaches that art is old and well known in the art to provide a box opening apparatus with a compressing section 5, comprised of a curved surface for opening a carton 2 before placement on forwarding conveyor 6 for the purpose of partially opening a box (see Fig. 1 and C2, L19-23). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Roberto with the compressing section as taught by Dietrich for the purpose partially opening a box.

In regard to claim 5, Roberto discloses the invention substantially as claimed except for angled lug surface of 20 –25 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a lug with a 20-25 degree incline, since it has been held that discovering an optimum value of a result effective value involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberto et al in view of Dietrich et al and in further view of Guttinger et al (US 5,91,078).

Roberto and Dietrich disclose the invention substantially as claimed except for the use of planetary gearing to rotate the pickup members. However, Guttinger teaches that it is old and well known in the art to provide planetary gearing 70,72 and 74 for the purpose of allowing pick up members to move in cycloidal path thereby increasing manufacturing throughput (see Figs. 2,5-7,9,10 and C1, L28-33). Therefore, it would

have been obvious to one having ordinary skill in the art to have modified the invention of Roberto with the planetary gearing as taught by Gutinger for the purpose of increasing manufacturing throughput.

6. Claim ¹⁴~~2~~ is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberto et al in view of Dietrich et al and in further view of Taddei (US 3,888,164).

Roberto and Dietrich disclose the invention substantially as claimed except for the output devices moving at similar speeds. However, Taddei teaches that it is old and well known in the art to provide conveyor 10 and 11, with diagonally opposing lugs 19 and 20 moving at a similar velocity for the purpose of increasing manufacturing throughput (see Fig. 1 and C5,L60 – C6,L16). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Roberto with the conveying system as taught by Taddei for the purpose of increasing manufacturing throughput.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Karpinsky, Langen, Konaka, Decker et al, Calvert et al, Tagliaferri et al, Reuteler and Herrin have been cited to show devices having similar structure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0700-1730, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Paul Durand
January 27, 2003

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal flourish extending to the right.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700